

# OFFICE OF THE ATTORNEY GENERAL



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## MOTOR VEHICLE LICENSES - FIRE DISTRICTS - SHELBY COUNTY

Fire Districts organized pursuant to the provisions of Code of Alabama 1975, §11-89-1, et seq., are entitled to a county tag under the provisions of Code of Alabama 1975, §40-12-250. However, the North Shelby County Fire and Emergency Medical District created pursuant to provisions of Act No. 62, Acts of Alabama 1977, First Special Session, is not entitled to either a county tag or a free "volunteer fire department" tag.

Dear Mr. Eagerton:

The letter dated October 17, 1978, addressed to the Attorney General, has been referred to this desk for reply. Your request was as follows:

"This office has received inquiries as to what type license plates should be used by fire districts. Specifically, we have received numerous inquiries from Shelby County where two distinct situations arise. First of all, Shelby County has eleven (11) fire districts which are, in effect, volunteer fire departments. These districts are financed in part from the Shelby County Commission - \$500.00 a year to each district. The second situation has arisen from Acts 20 and 62 of the 1977 Special Session which created a fire district in Shelby County (after voter approval).

"These fire districts desire a county tag under the provisions of §40-12-250, which is secured by a one-time payment of \$1.00 per tag from our office. We have informed the inquirers of §40-9-13 which allows a free regular tag to be issued annually by the Probate Judge.

"Our question is simply, are these eleemosynary fire departments partially funded by the county entitled to the county tag issued under §40-12-250?"

Fire protection districts in Alabama are organized pursuant to the provisions of Code of Alabama 1975, §11-89-1, et seq.. Where the fire districts are organized pursuant to §11-89-1, et seq., it is my opinion that the fire districts would be entitled to a county tag. My authority for such opinion would be §11-89-15 and §11-89-16.

Section 11-89-15 provides in part:

"The furnishing of fire protection by a district is hereby declared to be a governmental function."

It is clear from the language contained in the above quoted statute that the Legislature intended that fire districts which furnished fire protection should enjoy governmental immunity from taxation. Further evidence that the Legislature intended that fire districts should enjoy immunity from taxation is contained in §11-89-16 which provides:

"The property and income of the district, all bonds issued by the district, the income from such bonds, conveyances by or to the district and leases, mortgages and deeds of trust by or to the district shall be exempt from all taxation in the State of Alabama. The district shall be exempt from all taxes levied by any county, municipality or other political subdivision of the state, including, but without limitation to, license and excise taxes imposed in respect to the privilege of engaging in any of the activities that a district may engage in.

"The district shall not be obligated to pay or allow any fees, taxes or cost to the Judge of Probate of any county in respect of its incorporation, the amendment of its certificate of incorporation or the recording of any document."

From the above-quoted statute it is clear that the Legislature intended that fire districts would be exempt from all taxation in the State of Alabama and would not be obligated to pay any fees to the Judge of Probate. Therefore, it is my opinion that since the district performs a governmental function and enjoys the privilege of exemption from taxation, and since the local county

governing body contributes substantially to the support of the fire districts, then the Legislature intended that the districts would be entitled to display county motor vehicle license tags on motor vehicles owned by the district.

It should be emphasized that the above opinion pertains only to those districts which are organized pursuant to provisions of Code of Alabama 1975, §11-89-1, et seq. However, in the case of the North Shelby County Fire and Emergency Medical District, which was created by the Legislature pursuant to the provisions of Act No. 62, Acts of Alabama 1977, First Special Session, there does not appear any evidence that the Legislature intended that the North Shelby District should enjoy any privilege of exemption from taxation or that said district performed any governmental function. Since under the provisions of Code of Alabama 1975, §40-12-250, only those vehicles owned and used by the state, counties or municipalities are entitled to obtain and display the special distinctive tags, it is my opinion that the North Shelby County Fire and Emergency Medical District would not be entitled to obtain and display a county tag on motor vehicles owned by the district.

Code of Alabama 1975, §40-9-13 provides for an exemption from license tax for "all volunteer fire departments in this state". Since the North Shelby County Fire and Emergency Medical District is not strictly a "volunteer fire department", in that it employs several full time professional fire fighters, and since the fire district is authorized to levy and assess a charge for its services, and since in fact it does charge for services rendered, it is my opinion that the North Shelby County Fire and Emergency Medical District does not constitute a "volunteer fire department" in the usual meaning of the term as used in §40-9-13. Therefore, it is my opinion that the North Shelby County Fire and Emergency Medical District is not exempt from license tax on motor vehicles under the provisions of the Code of Alabama 1975, §40-9-13.

I hope I have fully answered the questions contained in your letter and if I can be of any further service to you in this matter, please do not hesitate to contact me.

Very truly yours,

CHARLES A. GRADDICK  
Attorney General

By: 

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